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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,781	10/17/2001	Cisse W. Spragins	Rock-PFT-1	6688

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MINNEAPOLIS, MN 55402

EXAMINER

GRILES, BETHANY L

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 05/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/981,781

Applicant(s)

SPRAGINS, CISSE W. 

Examiner

Bethany L. Griles

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 January 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-17, 20, 21, 26, 27, 32, 33, 35, 37-39, 43 and 44 is/are allowed.
- 6) ☒ Claim(s) 1-14, 18, 19, 22-25, 28-31, 34 and 36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

The applicant's arguments have been considered, but are not persuasive.

Regarding claim 1, the applicant states that a feature of the invention is its use of a disposable paper or plastic cup. It is not stated in the claims that the cup is disposable. Likewise, it is not stated in the claims that the base engages the cup without aid from any of the other parts. Finally, the fact that the components of the invention are inexpensive in no way imparts patentability.

Regarding claim 2, the reference of Contadini obviously exhibits a tapered portion of the cup itself. As exhibited in figure 3A, the cup diameter is smaller at the bottom than at the top.

Regarding claim 4, Contadini also discloses a tapered portion to both the cup and the base. By again referring to figure 3A, observe that there is more space between the cup and the base at the top of the structure than at the bottom, denoting tapered sidewalls on the cup. Likewise, the base elements 34 taper inward toward the cup as seen in figure 3A. The applicant does not claim a tapered **sidewall** portion on the base unit.

Regarding claims 6 and 7, Contadini discloses element 22b, which is described as a "catch". This suggests that the purpose of that structure is to hold the retainer and base in place, regardless of spatial orientation.

With regard to claim 9, the examiner draws attention to figure 2 of Contadini. Claim 9 was originally objected to as being dependent on a rejected claim. Upon re-

inspection of the Contadini reference, claim 9 will now be rejected based on the structures described. Please see the rejection below for details.

Regarding claims 11 and 12, examiner asserts that the movement along the axis described by Contadini is, in fact, "resilient movement". Depending on what axis of movement is being observed, Contadini anticipates both claim 11 and 12 as written.

Regarding claim 14, the claim as written seems to claim little more than the application or removal of the cover along an axis. Such engagement of the cover to the base is easily observable in many structures with removable caps or covers.

Regarding claim 19, Figure 7 of Contadini displays that a space exists between the retainer 22 and the cover 20.

The "fins", as described in claim 22, are identical to the structures seen in figure 5a, in particular element 22b.

With regard to claim 25, as discussed in claim 14 above, even though elements 20 and 22 are attached to each other, there are multiple spaces between the elements, as can be observed in figure 5.

With regard to claim 26, the argument is persuasive.

With regard to claim 28, the structure disclosed by Figures 1, 2, 5, 6, 6a, 6b, 11a is annular in shape.

Regarding claim 13, the claim as written seems to claim little more than the application or removal of the cover along an axis. Such engagement of the cover to the base is easily observable in many structures with removable caps or covers. Further,

the reference of Pierson, whether implicit or explicit, does teach the two-step process to apply the cover.

Regarding claim 29, the reference of Pierson, whether implicit or explicit, does teach the two-step process to apply and remove the cover.

Regarding claim 30, the reference of Pierson, whether implicit or explicit, does teach the two-step process to apply and remove the cover.

In regard to claim 31, the applicant states that a feature of the invention is its use of a disposable paper or plastic cup. It is not stated in the claims that the cup is disposable. Likewise, it is not stated in the claims that the base engages the cup without aid from any of the other parts. Finally, the fact that the components of the invention are inexpensive in no way imparts patentability.

Regarding claim 34, and upon closer inspection of the Contadini reference, examiner asserts that element 40, when viewed from an overhead angle, is annular and shape and digs into the ground.

With regard to claim 35, arguments are persuasive.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-14, 18, 19, 22-25, 28-31, 34, 40-42, 45-52 rejected under 35 U.S.C. 103(a) as being unpatentable over Contadini (US 6,219,960).

Regarding claim 1, 960 discloses a base 30 having a width greater than the diameter of the cup 32 opening 32a wherein the cup is insertable into the base opening (see fig 2).

960 does not disclose that the cup is from the group of paper and plastic cups, but does display a bait station made of plastic (col 4, line 24).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to assume that if Contadini discloses that the bait station could be made of plastic, this would include the cup portion of the station.

Regarding claim 2, 960 discloses that the sidewall of the cup 32 is tapered to be engaged by the base 30 (see fig 2).

Regarding claim 3, 960 discloses that the base 30 includes a tapered portion.

Regarding claim 4, 960 discloses that the tapered portion of the cup 32 and the tapered portion of the base 30 confront each other so the cup can be wedged inside the base (see fig 2).

Regarding claims 5 and 26, 960 discloses a retainer 22 which engages the base 30 and the cup 32.

Regarding claim 6, 960 discloses that the retainer 22 is tapered along one edge (see fig 3a) and is engagable with the base when turned right side up or upside down.

Regarding claim 7, 960 discloses that the retainer 22 is engagable with the base when turned right side up or upside down (see fig 3a).

Regarding claim 8, 960 discloses that the retainer comprises a tapered annular ring (see fig 5).

Regarding claim 9, Contadini discloses a tapered annular ring (fig 3a) wherein the rim may be disposed at ground level.

Regarding claim 10, 960 discloses a cover 20 engagable with the base 30.

Regarding claim 11, 960 discloses that the base 30 and cover 20 include a common axis (see fig 4) and the extension (see fig 4) must resiliently move to bring the cover and base into engagement with each other.

Regarding claim 12, 960 discloses that the base includes a receptor for the extension (see fig 4) wherein the extension must resiliently move to bring the cover and base into engagement with each other.

Regarding claim 13, Contadini discloses that the extension 50 must resiliently move to bring the cover and base into engagement with each other.

Regarding claim 14, 960 discloses that the extension must resiliently move to bring the cover and base out of engagement with each other (see fig 4).

Regarding claim 18, 960 discloses that portions of the cover (see fig 5a) are spaced from the base to form an insect opening.

Regarding claim 19, 960 discloses that the retainer 22 includes an upper and lower edge portion (see fig 4), spaced from an underside of the cover 20 at about a height of an insect wherein the lower edge portion extends over and beyond the cup opening (see fig 4).

Regarding claim 22, 960 discloses that the base 30 contains fins 34 (see fig 3a).

Regarding claim 23, 960 discloses that the cup 32 includes a lip 32a and wherein the base comprises an annular seat for seating the lip (see fig 3a).

Regarding claim 24, 960 discloses that the base is offset from the floor of the cup (see fig 3a).

Regarding claim 25, 960 discloses a base 30 having a width greater than the diameter of the cup 32 opening 32a wherein the cup is insertable into the base opening (see fig 2); a retainer 22 for confronting the edge of the base 30 and the cup 32; a cover 20 engagable to the base 30; wherein there is an insect opening for access by an insect into the cup (see fig 6).

960 does not disclose that the cup is from the group of paper and plastic cups, but does display a bait station made of plastic (col 4, line 24).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to assume that if Contadini discloses that the bait station could be made of plastic, this would include the cup portion of the station.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of 648 to the invention of 960 in order to utilize a lightweight and disposable poison or bait container.

Regarding claim 28, 960 discloses a base 30 having a width greater than the diameter of the cup 32 opening 32a wherein the cup is insertable into the base opening (see fig 2); a retainer 22 for confronting the edge of the base 30 and the cup 32; a cover 20 engagable to the base 30; wherein there is an insect opening for access by an insect into the cup (see fig 6).



Regarding claims 29 and 30, 960 discloses the insect bait station with first and second pieces including an axis, where the extension 50 must move resiliently to bring the first and second pieces into engagement with each other.

Regarding claim 31, 960 discloses the insect bait station (fig 2) with a lock 50.

Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over 960.

960 discloses that the station may be placed in the ground (col 7, line 42).

960 does not disclose that the station may be hung above the ground.

760 discloses that the station may be hung above the ground (fig 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of 760 to the invention of 960 in order to catch a wider variety of insects.

Regarding claim 40, Contadini discloses a first piece 30 having a receptacle, a second piece 32 engagable in the first piece, wherein the first 30 and second pieces 32 form a harborage with an entrance (fig 6a and 6b), wherein the insect travels through the opening as modified by the second insert 36.

Regarding claims 41, 45, 47, 49, and 51, Contadini discloses that the station is adaptable to be set in the ground (see element 40).

Regarding claims 42, 46, 48, 50, and 52, Contadini discloses an insect station.

Contadini does not disclose that the station is adaptable to be hung in a position for flying insects.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the station adaptable to be hung in a position for flying

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insects, as a trap on the ground would not capture flying insect pests, and the invention would have only to be hung up in order to be "adaptable to be hung".

***Allowable Subject Matter***

Claims 15-17, 20, 21, 26, 27, 32, 33, 36, 37, 39, 43, 44, are allowed.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bethany L. Griles whose telephone number is 703.305.1839. The examiner can normally be reached on Monday through Friday 8:00 am - 4:30 pm.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703.308.2574. The fax phone numbers for the organization where this application or proceeding is assigned are 703.306.4196 for regular communications and 703.305.3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.306.5771.

blg  
March 27, 2003

Bethany L. Griles  
Examiner  
Art Unit 3643

  
KURT ROWAN  
PRIMARY EXAMINER  
GROUP 3200